IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 400 of 2003 (S/B)

Dr. Suresh Chandra Gairola
S/o Sri Vachaspati Gairola
Department of Physics
H.N.B. Garhwal University
Campur Pauri
Uttaranchal ...Petitioner

Versus

H.N.B. Garhwal University,
Srinagar, Pauri Garhwal
Through its Registrar & 4 others ...Respondents

V.B.S. Negi, learned counsel for the petitioner
Sri L.P. Naithani, learned senior advocate assisted by Sri J.P. Joshi, learned counsel for the respondents

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Learned counsel for the university requested for final disposal of the writ petition, therefore, we are disposing of the same finally.

2. By means of this writ petition, the petitioner has challenged the order dated 06.06.2003 (Annexure 7 to the writ petition) passed by the Chancellor, Garhwal University under Section 68 of the U.P. State Universities Act, 1973 which is applicable in the State of Uttaranchal by which Chancellor rejected the claim of the petitioner to be considered for personal promotion.

2. Brief facts giving rise to the petition are that on 01.09.1996 on the approval of the selection committee and recommendation of the Executive Counsel the petitioner was granted senior pay scale of Lecturer. The petitioner was initially appointed on 16.08.1990 as Lecturer (Physics) on ad-hoc basis in H.N.B. Garhwal University, Srinagar Pauri Campus and worked on ad-hoc basis upto 31.08.1991 for a period of more than one year and in the year 1991, the

petitioner was appointed on regular basis as Lecturer (Physics). In the year 1996 on the recommendation of the Selection Committee, the Executive Counsel of the University granted the senior pay scale of Lecturer to the petitioner.

3. On 12.03.2001, the petitioner submitted an application alongwith Personal Appraisal Report to the Vice Chancellor through proper channer for consideration the candidature of the petitioner for the post of Reader by way of personal promotion. The said application was received and forwarded by the Principal on 13.03.2001 to the Vice Chancellor.

4. According to Section 12 (A) 1 of Part 1 of Chapter II of the Garhwal University First Pariniyamawali which reads as under:-

> *"A Lecturer of University already in Selection Grade who fulfils the requisite conditions as laid down in clause (11) may offer himself for promotion as Reader. If selection committee finds him fit; it shall recommend accordingly. If selection committee does not find him fit for promotion as Reader it shall state reasons therefore."*

5. From the perusal of the impugned order, it appears that the petitioner made allegations of malafide against some members of the selection committee and also took a ground that no reason was recorded by the selection committee.

6. The Chancellor in his order has recorded a finding that there is nothing on record to substantiate the allegations of malafides and personal anguish which could establish such allegations. The non-sending of the communication letter was found to be a malafide action as the petitioner appeared before the selection committee. The selection committee after the

evaluation of the records did not recommended him suitable for personal promotion. The committee has recorded the reason that the performance of the petitioner before the Interview Board was not satisfactory and accordingly, the Chancellor found the representation of the petitioner to be without force but the Chancellor taking a lenient view has directed the University's Vice Chancellor to constitute fresh selection committee to consider the personal promotion of the petitioner.

7. In this writ petition, after quashing the impugned order we cannot grant personal promotion to the petitioner directly. In any case, the petitioner has to face the selection committee which will judge his suitability for personal promotion under Section 12 (A) (1) of Part – 1 of Chapter II Garhwal University First Pariniyamawali of the Statute.

9. Since the Chancellor has already directed the Vice-Chancellor to constitute a selection committee to consider the case of the petitioner for personal promotion, we do not find any force in the writ petition. However, since the Chancellor has directed, the Vice Chancellor to constitute a selection committee, we further direct the Vice Chancellor to constitute the said committee, within a period of 15 days from the production of the certified copy of the order to consider the matter of personal promotion of the petitioner and pass appropriate order within 45 days thereafter.

10. With the aforesaid observations, the petition is disposed of finally.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

02.03.2006
R. Dang